

Despite the Court's warning in the Order to Amend advising Plaintiff that his Amended Complaint would entirely replace the original complaint, Plaintiff may be seeking to "supplement" the original complaint with new claims. The Court may, pursuant to Fed. R. Civ. P. 15(d), permit a party, upon motion, "to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented." *Id.* And because Plaintiff proceeds *pro se*, the Court is "to construe [such] complaints liberally and to apply a more flexible standard in determining the sufficiency of a pro se complaint than [it] would in reviewing a pleading submitted by counsel." *Platsky v. CIA*, 953 F.2d 26, 28 (2d Cir. 1991).


Because it is not clear to the Court that Plaintiff intended to drop his claims against Murphy and Moore, Plaintiff is directed to file a letter via ECF on or before September 28, 2020 advising the Court if he intends the Amended Complaint to supplement the original complaint. If Plaintiff fails to respond or advises the Court that he did not intend to supplement the original complaint, the Court will deem the Amended Complaint to be the operative complaint in this action and will screen the Amended Complaint under 28 U.S.C. § 1915(e)(2)(B)(ii). No summons will issue at this time.

The Clerk of Court is directed to mail a copy of this order to Plaintiff.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED:

Dated: New York, New York
August 31, 2020



Philip M. Halpern
United States District Judge